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February 13, 2012

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BY ECF

Hon. Diane P. Wood
Hon. J.P. Stadtmueller
Hon. Robert W. Dow, Jr.
United States District Court
Eastern District of Wisconsin
517 East Wisconsin Ave.
Milwaukee, WI 53202

Re: *Baldus, et al v. Brennan, et al*, Case No. 2:11-CV-562
Voces de la Frontera, Inc., et al v. Brennan, et al, Case No. 2:11-cv-1011

Dear Judges Wood, Stadtmueller, and Dow:

This letter is inform the Court that the Voces de la Frontera plaintiffs object to the Legislature's request for the appointment of a Magistrate to conduct an *in camera* review of 84 subpoenaed documents that are still being withheld from production on the basis of attorney client privilege notwithstanding the prior Orders of the Court. The mandate of the January 3, 2012, Order unambiguously stated:

IT IS FURTHER ORDERED that Messrs. Joseph Handrick, Tad Ottman, and Adam Foltz shall appear before the plaintiffs for a deposition, with the specific directive that they comply with this court's prior orders requiring disclosure of documents and denying application of privilege;

The clear language of the order directs that Messrs. Ottman and Foltz "comply with this court's prior orders requiring disclosure of documents and denying application of privilege." The privilege referred to in that mandate is the attorney client privilege. On December 6, 2011, the Legislature filed a motion to quash the subpoena *duces tecum* issued to Tad Ottman. The only privilege asserted in support of that motion was the attorney client privilege. There was absolutely no mention of legislative privilege in the motion. (See Docket # 72, p. 3) The motion was denied on December 8, 2011. (See Docket # 74, p. 6). The Legislature then filed a motion for clarification/reconsideration on December 13, 2011, which did not mention Mr. Ottman and instead focused on Joe Handrick. That motion was denied on December 20, 2011. A third motion for reconsideration styled as a motion for review by the three judge panel was filed on December 23, 2011. That motion was denied on January 3, 2012, with an emphatic directive that the Legislature "*cooperate immediately.*"

Since the only privilege asserted on behalf of Mr. Ottman was the attorney client privilege, it necessarily follows that the January 3, 2012, Order denying the application of

privilege to documents withheld by Mr. Ottman, and the similarly situated Mr. Foltz was the attorney client privilege. Accordingly, a request for an *in camera* review erroneously presumes that the 84 withheld documents are not subject to existing Orders already compelling the production of those documents. A copy of the privilege log is attached to this letter as Exhibit 1. As the Legislature has not filed a fourth motion asking the Court to yet again reconsider its prior Orders, it is the position of the Voces plaintiffs that the Court should deny the request for the appointment of a Magistrate Judge and direct the immediate production of the 84 documents.

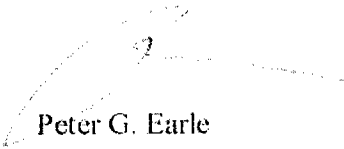
This case is on the eve of the trial and it is clear that highly relevant documents are being withheld. For example, the defendants assert that an attorney for the Legislature consulted with certain employees of the Chicago office of the Mexican Legal Defense and Education Fund (MALDEF), yet significant portions of a key e-mail chain involving Messrs. Ottman and Foltz regarding those contacts have been redacted. This e-mail string was marked as Exhibit 116 to the deposition of Mr. Ottman taken on February 2, 2012. A copy is attached to this letter as Exhibit 2. In his deposition, Mr. Ottman intentionally made partial disclosures of the contents of the redacted portions of Exhibit 116, and the Legislature's attorney strategically chose not to object to the questions asked and permitted Mr. Ottman to testify about what he remembered regarding those allegedly privileged e-mail exchanges. Attached to this letter as Exhibit 3 are the relevant portions of the transcript of Mr. Ottman's deposition dated February 2, 2012, at 292, line 3 to page 297, line 19; and page 365, line 3 to 366, line 15. The defendants have placed into controversy the importance of the discussions between the MALDEF employees and counsel for the Legislature, therefore pursuant to Fed. R. Evid 502(a)(3), fairness requires that the disclosed portions of the redacted communications be considered together with the undisclosed portions. The Legislature should not be permitted to selectively apply privilege to the strategic advantage of the defendants, especially when the continued assertion of privilege is *a priori* in contravention of prior Orders of the Court.

Furthermore, the documents that have been disclosed pursuant to the Court's prior orders demonstrate that the Legislature attempted to over broadly use the attorney client privilege to shield the entire redistricting process behind the closed doors of a law firm. Under the direction and supervision of the Legislature's counsel, Mr. Ottman met with 17 Republican members of the Wisconsin State Senate and asked that each senator sign a secrecy agreement captioned "Confidentiality and Nondisclosure Related to Reapportionment." The secrecy agreement indicated that the Legislature's counsel had "instructed" Mr. Ottman to meet with certain members of the Senate to discuss the reapportionment process and that said conversations were to be considered subject to the attorney-client and attorney work product privileges. Each of the 17 senators signed the secrecy agreements between April 6, 2011, and May 10, 2011, and each thereby agreed not to disclose the fact and/or contents of the discussions or any draft documents within their possession related to reapportionment. The individual meetings occurred at Mr. Ottman's office at Michael, Best and Friedrich. Attached to this letter as Exhibit 4 are copies of the 17 secrecy agreements signed by the Republican senators. Similar agreements were signed by 58 Republican members of the Assembly and similar secret meetings were held at the law offices of the Legislature's counsel. The production also included a so-called "talking points memo" which was used to guide the individual meetings held with each legislator who signed the secrecy agreements. That memo stated that "[p]ublic comments on this map may be different than what you hear in this room. Ignore the public comments." The talking points memo then

explicitly stated that the previously signed secrecy agreement applied to the individual meeting between Mr. Foltz and each individual Republican representative. A copy of the "talking points memo" is attached as Exhibit 5. Thus, the documents produced demonstrate an intentional effort by the Legislature to hide from the public the true nature of the secret redistricting process under the guise of an over broad cloak of the attorney client privilege and through the individual secrecy agreements between each individual Republican legislator and the Legislature's attorney. Based on these documents, the record contains a strong inference that the public justifications of the redistricting plan are false and the real reasons remain hidden behind an over broad veil of attorney-client privilege. Although intent is not required to prove a vote dilution case under § 2 of the Voting Rights Act, it may nevertheless be relevant to such a claim. *Committee for a Fair and Balanced Map v. Illinois State Board of Elections*, 2011 WL 6318960, ¶ 15 (N.D. Ill.). The factual context of this continuing discovery dispute raises the inference that evidence of the real intent of the Legislature remains hidden behind the continued assertion of privilege. It is time the Legislature fully comply with the Court's Orders once and for all.

Thank you for the Court's attention to this matter.

Sincerely,



Peter G. Earle

Encls: Privilege log
Exhibit 116 to Ottman deposition
Selected portions of Ottman deposition transcript.

cc: All counsel of record (via ECF)

PRIVILEGE LOG

	Date	Author	Recipient(s)	Description	Privilege Asserted
1.	July 12, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Raymond Taffora	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
2.	July 13, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Raymond Taffora	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
3.	July 13, 2011	Jim Troupis	Adam Foltz, Eric McLeod, Raymond Taffora	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
4.	July 13, 2011	Raymond Taffora	Tad Ottman, Jim Troupis, Adam Foltz, Eric McLeod	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
5.	July 13, 2011	Tad Ottman	Jim Troupis, Adam Foltz, Eric McLeod, Raymond Taffora	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
6.	July 13, 2011	Tad Ottman	Raymond Taffora, Jim Troupis, Adam Foltz, Eric McLeod	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
7.	July 13, 2011	Raymond Taffora	Tad Ottman, Jim Troupis, Adam Foltz, Eric McLeod	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
8.	July 13, 2011	Jim Troupis	Tad Ottman, Raymond Taffora, Adam Foltz, Eric McLeod	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
9.	July 13, 2011	Tad Ottman	Jim Troupis, Eric McLeod, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
10.	July 11, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Raymond Taffora	Email facilitating the provision of legal advice concerning communities of interest	Attorney/Client Privilege
11.	July 11, 2011	Jim Troupis	Tad Ottman, Eric McLeod, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning communities of interest	Attorney/Client Privilege
12.	July 11, 2011	Tad Ottman	Jim Troupis, Eric McLeod, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning communities of interest	Attorney/Client Privilege
13.	July 11, 2011	Tad Ottman	Eric McLeod, Jim Troupis, Raymond Taffora	Email facilitating the provision of legal advice concerning communities of interest	Attorney/Client Privilege
14.	Not dated	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Raymond Taffora	Attachment to July 11, 2011 Email from Jim Troupis (item 10) – draft testimony concerning communities of interest	Attorney/Client Privilege
15.	July 19, 2011	Raymond Taffora	Tad Ottman, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
16.	Not dated			Attachment to July 19, 2011 Email (item 15) – memorandum concerning opposition to SBs	Attorney/Client Privilege

	Date	Author	Recipient(s)	Description	Privilege Asserted
				148, 149 and 150	
17.	July 11, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Raymond Taffora, Eric McLeod	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
18.	July 11, 2011	Tad Ottman	Jim Troupis, Adam Foltz, Raymond Taffora, Eric McLeod	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
19.	July 12, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Raymond Taffora	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
20.	July 12, 2011	Tad Ottman	Jim Troupis, Adam Foltz, Eric McLeod, Raymond Taffora	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
21.	January 31, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Sarah Troupis	Email facilitating the provision of legal advice concerning matters related to the retention of expert witnesses and matters related to the engagement	Attorney/Client Privilege
22.	February 1, 2011	Tad Ottman	Jim Troupis, Adam Foltz, Eric McLeod, Sarah Troupis	Email facilitating the provision of legal advice concerning receipt and use of data received from L TSB	Attorney/Client Privilege
23.	February 1, 2011	Eric McLeod	Adam Foltz	Email facilitating the provision of legal advice and specifically concerning the scheduling of a meeting between attorney and client	Attorney/Client Privilege
24.	February 1, 2011	Adam Foltz	Eric McLeod	Email facilitating the provision of legal advice and specifically concerning the scheduling of a meeting between attorney and client	Attorney/Client Privilege
25.	February 1, 2011	Eric McLeod	Adam Foltz	Email facilitating the provision of legal advice concerning and specifically concerning the scheduling of a meeting between attorney and client	Attorney/Client Privilege
26.	February 2, 2011	Eric McLeod	Adam Foltz	Email facilitating the provision of legal advice and specifically concerning the scheduling of a meeting between attorney and client	Attorney/Client Privilege
27.	February 2, 2011	Adam Foltz	Eric McLeod	Email facilitating the provision of legal advice and specifically concerning the scheduling of a meeting between attorney and client	Attorney/Client Privilege
28.	February 3, 2011	Eric McLeod	Adam Foltz	Email facilitating the provision of legal advice and specifically concerning the scheduling of a meeting between attorney and client	Attorney/Client Privilege

	Date	Author	Recipient(s)	Description	Privilege Asserted
29.	April 1, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Sarah Troupis, Sandy Tabachnick, Eric McLeod	Email facilitating the provision of legal advice concerning matters related to the retention of expert witnesses	Attorney/Client Privilege
30.	May 1, 2011	Jim Troupis	Tad Ottman, Adam Foltz	Email facilitating the provision of legal advice and in particular an inquiry concerning the status of the drafting of districts	Attorney/Client Privilege
31.	May 20, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Sarah Troupis	Email facilitating the provision of legal advice concerning legal principles governing redistricting and transmittal of memorandum regarding same	Attorney/Client Privilege
32.	December 15, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod	Memo regarding legal principles governing redistricting	Attorney/Client Privilege
33.	June 3, 2011	Jim Troupis	Tad Ottman, Adam Foltz	Email facilitating the provision of legal advice concerning the Voting Rights Act	Attorney/Client Privilege
34.	June 13, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Sarah Troupis	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
35.	June 13, 2011	Eric McLeod	Jim Troupis, Tad Ottman, Adam Foltz, Sarah Troupis	Email facilitating the provision of legal advice and specifically the scheduling of meetings	Attorney/Client Privilege
36.	June 13, 2011	Adam Foltz	Jim Troupis	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
37.	June 13, 2011	Adam Foltz	Jim Troupis	Email facilitating the provision of legal advice concerning Voting Rights Act, attaching maps related to AD 8 and AD 9	Attorney/Client Privilege
38.	Not dated			Maps related to AD 8 and AD 9, attached to June 13, 2011 email (item 37)	Documents already produced
39.	June 13, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Sarah Troupis	Email facilitating the provision of legal advice concerning redistricting litigation	Attorney/Client Privilege
40.	June 15, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Sarah Troupis	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
41.	June 24, 2011	Tad Ottman	Eric McLeod, Jim Troupis, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
42.	June 24, 2011	Jim Troupis	Tad Ottman, Eric McLeod, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
43.	June 24, 2011	Tad Ottman	Eric McLeod, Jim Troupis, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
44.	June 24, 2011	Jim Troupis	Tad Ottman, Eric McLeod, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege

	Date	Author	Recipient(s)	Description	Privilege Asserted
45.	June 24, 2011	Tad Ottman	Eric McLeod, Jim Troupis, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
46.	June 24, 2011	Eric McLeod	Jim Troupis, Tad Ottman, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
47.	June 24, 2011	Jim Troupis	Eric McLeod, Tad Ottman, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
48.	June 24, 2011	Eric McLeod	Tad Ottman, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
49.	June 24, 2011	Tad Ottman	Jim Troupis, Eric McLeod, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
50.	June 24, 2011	Jim Troupis	Tad Ottman, Eric McLeod, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
51.	June 24, 2011	Tad Ottman	Jim Troupis, Eric McLeod, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
52.	June 27, 2011	Tad Ottman	Eric McLeod, Jim Troupis, Adam Foltz, Raymond Taffora	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
53.	June 27, 2011	Jim Troupis	Tad Ottman, Eric McLeod, Adam Foltz, Raymond Taffora, Sarah Troupis	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
54.	June 27, 2011	Tad Ottman	Eric McLeod, Jim Troupis, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
55.	June 27, 2011	Tad Ottman	Jim Troupis, Eric McLeod, Adam Foltz, Raymond Taffora, Sarah Troupis	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
56.	June 27, 2011	Jim Troupis	Tad Ottman, Eric McLeod, Adam Foltz, Raymond Taffora, Sarah Troupis	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
57.	June 27, 2011	Tad Ottman	Jim Troupis, Eric McLeod, Adam Foltz, Raymond Taffora, Sarah Troupis	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
58.	June 27, 2011	Eric McLeod	Tad Ottman, Jim Troupis, Adam Foltz, Raymond Taffora, Sarah Troupis	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
59.	June 28, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
60.	June 28, 2011	Tad Ottman	Jim Troupis, Adam Foltz, Eric McLeod,	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege

	Date	Author	Recipient(s)	Description	Privilege Asserted
61.	June 30, 2011	Tad Ottman	Eric McLeod, Jim Troupis, Raymond Taffora, Sarah Troupis, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
62.	June 30, 2011	Jim Troupis	Tad Ottman, Eric McLeod, Raymond Taffora, Sarah Troupis, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
63.	June 30, 2011	Raymond Taffora	Tad Ottman, Eric McLeod, Jim Troupis, Sarah Troupis, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
64.	June 30, 2011	Raymond Taffora	Jim Troupis, Tad Ottman, Adam Foltz, Eric McLeod, Sarah Troupis	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
65.	June 30, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Raymond Taffora, Sarah Troupis	Email facilitating the provision of legal advice concerning legal principles governing redistricting	Attorney/Client Privilege
66.	June 30, 2011	Tad Ottman	Raymond Taffora, Jim Troupis, Adam Foltz, Eric McLeod, Sarah Troupis	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
67.	July 11, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Raymond Taffora, Eric McLeod	Email facilitating the provision of legal advice concerning Voting Rights Act	Attorney/Client Privilege
68.	July 6, 2011	Tad Ottman	Eric McLeod	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
69.	March 22, 2011	Jim Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Sarah Troupis	Email facilitating the provision of legal advice concerning drafting of redistricting legislation	Attorney/Client Privilege
70.	March 15, 2011	Sarah Troupis	Tad Ottman, Adam Foltz, Eric McLeod, Nathan Moenck, Jim Troupis	Email facilitating the provision of legal advice concerning delayed voting or disenfranchisement, and transmitting memorandum regarding same	Attorney/Client Privilege
71.	March 10, 2011	Tad Ottman	Jim Troupis, Eric McLeod, Adam Foltz	Email facilitating the provision of legal advice concerning delayed voting or disenfranchisement	Attorney/Client Privilege
72.	March 10, 2011	Eric McLeod	Tad Ottman, Jim Troupis, Adam Foltz, Nathan Moenck	Email facilitating the provision of legal advice concerning delayed voting or disenfranchisement	Attorney/Client Privilege
73.	March 11, 2011	Jim Troupis	Eric McLeod, Tad Ottman, Adam Foltz, Nathan Moenck	Email facilitating the provision of legal advice concerning delayed voting or disenfranchisement	Attorney/Client Privilege

	Date	Author	Recipient(s)	Description	Privilege Asserted
74.	February 25, 2011	Tad Ottman	Jim Troupis, Eric McLeod, Adam Foltz	Email facilitating the provision of legal advice concerning drafting of redistricting legislation	Attorney/Client Privilege
75.	February 25, 2011	Eric McLeod	Tad Ottman, Jim Troupis, Adam Foltz	Email facilitating the provision of legal advice concerning drafting of redistricting legislation	Attorney/Client Privilege
76.	July 18, 2011	Tad Ottman	Jim Troupis, Eric McLeod, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning contiguity and delayed voting or disenfranchisement	Attorney/Client Privilege
77.	July 18, 2011	Jim Troupis	Tad Ottman, Eric McLeod, Raymond Taffora, Adam Foltz	Email providing legal advice concerning delayed voting or disenfranchisement	Attorney/Client Privilege
78.	July 16, 2011	Tad Ottman	Jim Troupis, Raymond Taffora, Eric McLeod, Adam Foltz	Email facilitating the provision of legal advice concerning delayed voting or disenfranchisement	Attorney/Client Privilege
79.	July 16, 2011	Eric McLeod	Tad Ottman, Jim Troupis, Raymond Taffora, Adam Foltz	Email facilitating the provision of legal advice concerning delayed voting or disenfranchisement	Attorney/Client Privilege
80.	July 16, 2011	Tad Ottman	Jim Troupis, Raymond Taffora, Eric McLeod, Adam Foltz	Email facilitating the provision of legal advice concerning delayed voting or disenfranchisement	Attorney/Client Privilege
81.	July 17, 2011	Jim Troupis	Tad Ottman, Raymond Taffora, Eric McLeod, Adam Foltz	Email facilitating the provision of legal advice concerning delayed voting or disenfranchisement	Attorney/Client Privilege
82.	July 16, 2011	Tad Ottman	Jim Troupis, Raymond Taffora, Eric McLeod, Adam Foltz	Email facilitating the provision of legal advice concerning delayed voting or disenfranchisement and Voting Rights Act	Attorney/Client Privilege
83.	July 12, 2011	Tad Ottman	Jim Troupis, Raymond Taffora, Eric McLeod, Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege
84.	July 12, 2011	Tad Ottman	Adam Foltz	Email facilitating the provision of legal advice concerning draft redistricting legislation	Attorney/Client Privilege

029472-0001\10976449.1



Tad Ottman <tottman@gmail.com>

MALDEF

2 messages

Jim Troupis <jrtroupis@trouplawoffice.com>

Tue, Jul 12, 2011 at 3:32 PM

To: tottman <tottman@gmail.com>, adamfoltz@gmail.com

Cc: "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

Troupis Law Office LLC

7609 Elmwood Ave

Suite 102

Middleton, WI 53562

608.807.4096

jrtroupis@trouplawoffice.com

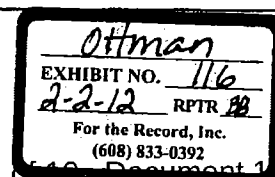
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tottman <tottman@gmail.com>

Tue, Jul 12, 2011 at 3:43 PM

To: Jim Troupis <jrtroupis@trouplawoffice.com>

Cc: adamfoltz@gmail.com, "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com





Tad Ottman <tottman@gmail.com>

FW: MALDEF WI House Plan, (2nd edition)

6 messages

Jim Troupis <jrtroupis@trouplawoffice.com>

Mon, Jul 11, 2011 at 5:05 PM

To: tottman <tottman@gmail.com>, adamfoltz@gmail.com

Cc: "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

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Suite 102

Middleton, WI 53562

608.807.4096

jrtroupis@trouplawoffice.com

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From: Elisa Alfonso [mailto:ealfonso@MALDEF.org]

Sent: Monday, July 11, 2011 4:50 PM

To: 'Jim Troupis'

Cc: Alonzo Rivas

Subject: FW: MALDEF WI House Plan, (2nd edition)

Jim,

As promised, here is the MALDEF map we discussed this afternoon.

If you have any questions, please let us know.

Elisa

 **WI_House_MALDEF_Plan2.zip**
314K

tottman <tottman@gmail.com>

Mon, Jul 11, 2011 at 5:35 PM

To: Jim Troupis <jrtroupis@trouplawoffice.com>

Cc: adamfoltz@gmail.com, "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

Jim Troupis <jrtroupis@trouplawoffice.com>

Mon, Jul 11, 2011 at 5:41 PM

To: tottman <tottman@gmail.com>

Cc: adamfoltz@gmail.com, "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

Troupis Law Office LLC

7609 Elmwood Ave

Suite 102

Middleton, WI 53562

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jrtroupis@troupislawoffice.com

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From: tottman [mailto:tottman@gmail.com]

Sent: Monday, July 11, 2011 5:35 PM

To: Jim Troupis

Cc: adamfoltz@gmail.com; McLeod, Eric M (22257); rptaffora@michaelbest.com

Subject: Re: FW: MALDEF WI House Plan, (2nd edition)

[Quoted text hidden]

tottman <tottman@gmail.com>

Mon, Jul 11, 2011 at 5:57 PM

To: Jim Troupis <jrtroupis@troupislawoffice.com>

Cc: adamfoltz@gmail.com, "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

Jim Troupis <jrtroupis@troupislawoffice.com>

Mon, Jul 11, 2011 at 6:42 PM

To: tottman <tottman@gmail.com>, adamfoltz@gmail.com, "McLeod, Eric M (22257)"

<EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

Troupis Law Office LLC

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jtroupis@troupislawoffice.com

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From: Jim Troupis [mailto:jtroupis@troupislawoffice.com]

Sent: Monday, July 11, 2011 6:41 PM

To: 'Elisa Alfonso'; 'Alonzo Rivas'

Subject: FW: FW: MALDEF WI House Plan, (2nd edition)

Elisa and Alonzo,

I like your proposal. We've taken it a bit further. Here is a comparison of MALDEF's proposal to a suggestion we think might work a bit better. MALDEF's option is shown in color and our suggestion to do the same thing on the same template is shown in outline form as an overlay.

The HVAP numbers under the 2 plans:

MALDEF

AD 8 60.10

AD 9 53.00

Our Alternative

AD 8 60.52

AD 9 54.03

So this takes the same principal and improves it slightly on the numbers. Importantly, the MALDEF proposal would result in changing at least four other assembly districts in the present legislation, while this alternative would not cause those other unnecessary changes. As a result, I think the legislature could move to your suggestion—with our small changes.

Let us know what you think.

The hearing is on Wens., and if you would be willing to speak on behalf of this, we can then make sure you are on the agenda and the plan is given complete consideration.

Jim

Troupis Law Office LLC

7609 Elmwood Ave

Suite 102

Middleton, WI 53562

608.807.4096

jtroupis@troupislawoffice.com

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From: Elisa Alfonso [mailto:ealfonso@MALDEF.org]
Sent: Monday, July 11, 2011 4:50 PM
To: 'Jim Troupis'
Cc: Alonzo aRivas
Subject: FW: MALDEF WI House Plan, (2nd edition)

Jim,

As promised, here is the MALDEF map we discussed this afternoon.

If you have any questions, please let us know.

Elisa

 Comparison of 64-50 maps.pdf
64K

Jim Troupis <jrtroupis@troupislawoffice.com>

Tue, Jul 12, 2011 at 12:00 PM

To: tottman@gmail.com, adamfoltz@gmail.com, "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptafora@michaelbest.com

James R. Troupis

Troupis Law Office LLC

jrtroupis@troupislawoffice.com

ph. 608-807-4096

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contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

From: Elisa Alfonso [mailto:ealfonso@MALDEF.org]
Sent: Tuesday, July 12, 2011 11:41 AM
To: Jim Troupis; Alonzo Rivas
Subject: Re: FW: MALDEF WI House Plan, (2nd edition)

Jim,
Alonzo is out this morning and won't be back until this afternoon.

In regards to the MALDEF map, we will go with the recommendation you made last night.

As for tomorrow, we are unfamiliar with the process. Does it have to be oral testimony or can it be written? Any suggestions you can give us will be greatly appreciated.

We definitely need to speak today. Please let us know when you think we can have a call after your meetings.

Thank you.

Sent via BlackBerry by AT&T

From: Jim Troupis <jtroupis@troupislawoffice.com>
Date: Tue, 12 Jul 2011 10:35:56 -0500
To: Elisa Alfonso<ealfonso@MALDEF.org>; Alonzo Rivas<Arivas@MALDEF.org>
Subject: RE: FW: MALDEF WI House Plan, (2nd edition)

Elisa,

I am meeting with legislative leaders this afternoon. Can we talk later this morning? The hearing will be tomorrow at 10 a.m. in Madison, and so, to the extent we can, we would like to insure that the concerns of the Latino community are addressed. This morning I asked staff to consult with our Legislative Reference Bureau on these alternatives as they must ultimately draft any amendment.

Let me know what works.

Jim

James R. Troupis

Troupis Law Office LLC

jtroupis@troupislawoffice.com

ph. 608-807-4096

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From: Jim Troupis [mailto:jtroupis@troupislawoffice.com]

Sent: Monday, July 11, 2011 6:41 PM

To: Elisa Alfonso; Alonzo Rivas

Subject: FW: FW: MALDEF WI House Plan, (2nd edition)

Elisa and Alonzo,

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unnecessary changes. As a result, I think the legislature could move to your suggestion—with our small changes.

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As promised, here is the MALDEF map we discussed this afternoon.

If you have any questions, please let us know.

Elisa

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ALVIN BALEWS, CINDY BARBERA,
CARLENE BECHER, RONALD BENGESSE,
RON BOONE, VERA BOONE, ELLIOTA BONDUS,
EVANGELINA CIERREMAN, SHEILA COHRAN,
LESLIE M. DAVIS III, BRETT ECKSTEIN,
MAXINE MOORE, CLARENCE JOHNSON,
RICHARD KRESSBACH, RICHARD LANGE,
GLADYS MARGARET, ROCHELLE MOORE,
AMY RISSEBOM, JUDY ROSSON, GLORIA ROGERS,
JEANNE SANCHEZ-BELL, CECILIA SCHLIEFF,
and TRAVIS THYSSEN,

Plaintiffs,

TAMM BALWIN, GWENDOLYNNE MOORE,
and RONALD KIND,

Intervenor-Plaintiffs,

v. File No. 11-CV-063

Members of the Wisconsin Government
Accountability Board, each only in
his official capacity;
MICHAEL BRENNAN, DAVID DEININGER,
GERALD NICHOL, THOMAS CANE,
THOMAS EARLAND, and TIMOTHY VOCKE,

Defendants.

WIDEOTAPE DEPOSITION - VOLUME II
TAD M. OTTMAN

Madison, Wisconsin
February 2, 2012

Brandt A. Browne, RFP, CRP
Registered Professional Reporter

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FOR THE RECORD, INC. / MADISON, WISCONSIN / (608) 833-0392

1 and KEVIN KENNEDY, Director and
2 General Counsel for the Wisconsin
3 Government Accountability Board,

Defendants,

4 F. JAMES SENSENBRENNER, JR.,
5 THOMAS E. BERRY, PAUL D. PYLE, JR.,
6 REID C. RIBBLE, and SEAN E. DUFFY,
7 Intervenor-Defendants.

8 VOCCES DE LA FRONTERA, INC.,
9 RAMIRO VARA, OLGA VARA,
10 JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v. Case No. 11-CV-1011
JPS-DPW-RMD

12 Members of the Wisconsin Government
13 Accountability Board, each only in
14 his official capacity;
15 MICHAEL BRENNAN, DAVID DEININGER,
16 GERALD NICHOL, THOMAS CANE,
17 THOMAS EARLAND, and TIMOTHY VOCKE,
18 and KEVIN KENNEDY, Director and
19 General Counsel for the Wisconsin
20 Government Accountability Board,

Defendants.

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1	I N D E X	Pages
2	Witness	
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9	Packet of e-mails and text maps	259
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11	Ottman 000195 - 001056	295
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15	Talking points	349
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19	Tropolis 000164 - 000073	381
20	E-mail from Jim Tropolis	411
21	Salon.com article	411
22	Outline for TAC Ottman testimony	415
23	(The original exhibits were attached to the original transcript and copies were provided to counsel.)	
24	(The original deposition transcript was filed with Attorney Douglas M. Poland)	
25		

1	WITNESSE DEPOSITION OF TAC M. OTTMAN	Pages
2	A witness of Jerald Age, taken on behalf of the	
3	Plaintiffs, wherein Alvin Baldus, et al., are	
4	Plaintiffs, and Members of the Wisconsin Government	
5	Accountability Board, et al., are Defendants, pending	
6	in the United States District Court for the	
7	Eastern District of Wisconsin, pursuant to subpoena,	
8	before Brande A. Browne, a registered professional	
9	Reporter and Notary Public in and for the State of	
10	Wisconsin, at the office of Godfrey & Kahn, S.C.,	
11	Attorneys at Law, One East Main Street, Suite 500,	
12	City of Madison, County of Dane, and State of	
13	Wisconsin, on the 2nd day of February 2011,	
14	commencing at 9:00 in the forenoon.	
15		
16	A P P E A R A N C E S	
17		
18	DOUGLAS M. POLAND, Attorney,	
19	for GODFREY & KAHN, S.C., Attorneys at Law,	
20	One East Main Street, Suite 500, Madison,	
21	Wisconsin 53703, appearing on behalf of	
22	Plaintiffs Alvin Baldus, et al.,	
23		
24	PETER S. EARLE, Attorney,	
25	for LAW OFFICE OF PETER EARLE, LLC, Attorneys at Law,	
	839 North Jefferson Street, Suite 300,	
	Milwaukee, Wisconsin 53102, appearing	
	telephonically on behalf of Plaintiffs	
	Voices De La Frontiera, Inc., et al.	

A F F I D A V I T S (Continued)

MARIA S. LAGAR, Assistant Attorney General,
for STATE OF WISCONSIN DEPARTMENT OF JUSTICE,
17 West Main Street, Madison, Wisconsin 53703,
appearing on behalf of the Defendants.

DANIEL RELY, Attorney,
for RICHARD SCHEMER VAN COTTEN S.C.,
Attorneys at Law, 200 North Water Street,
Suite 2100, Milwaukee, Wisconsin 53201,
appearing on behalf of the Defendants.

ERIC M. MORROW, Attorney,
for MICHAEL BEST & FRIEDRICH LLP, Attorneys at Law,
One South Pinckney Street, Suite 700, Madison,
Wisconsin 53703, appearing on behalf of the
Wisconsin State Senate by its Majority Leader
Scott Fitzgerald, the Wisconsin Assembly by its
Speaker Jeff Fitzgerald, and
Joseph W. Handrick.

Also present: Todd S. Campbell, TWS
Campbell Legal Video Company
417 Heather Lane, Suite 5
Frederonia, WI 53021
(608) 447-0100

THE VIDEOCAPHER: We are on the
record. Seated before you is Mr. Tad Ottman.
This is Disk No. 1 of the continuation of the
video deposition. The date is February 10,
2012. The time is 9:23 a.m., and we are on
the record.

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TAD M. OTTMAN,
called as a witness, testified on oath
as follows:

EXAMINATION

By Mr. Poland:

Q Good morning, Mr. Ottman.

A Good morning.

Q If you recall from the last time that we are here
sitting for your deposition, I'm Doug Poland. I
represent the plaintiffs in the Baldus litigation,
one of the groups of plaintiffs in the Baldus
litigation, and we are continuing your deposition
from where we left off in December. I wanted to
hand you a copy of what we had marked at your
deposition in December as Exhibit No. 36. And you
recall that Exhibit 36 is a subpoena for you to
testify at your deposition?

A Yes.

Q All right. So I just want to remind you that you
are still under subpoena and still under oath from
the previous deposition, okay?

A Okay.

Q Would you please turn to the last page of
Exhibit 36? You will see that's Exhibit A, which

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1 December, okay?

2 A Okay.

3 Q Do you see, going through Exhibit No. 116, that

4 there are several areas where the rest of the

5 e-mail has been redacted?

6 A Yes.

7 Q Do you know whether this particular e-mail chain

8 that's contained within Exhibit 116 was -- strike

9 that question. Do you know whether the unredacted

10 version of this e-mail chain contained in

11 Exhibit 116 was among the documents that you

12 produced?

13 A I don't know.

14 Q The first e-mail, it appears it's in reverse chron

15 order here, or at least some portions of it are.

16 The very first e-mail is from Mr. Troupis to you

17 and Mr. Feltz, copies to Mr. McLeod and then

18 Mr. Patterson, correct?

19 A Yes.

20 Q And the header says MALDEF; do you see that?

21 A Yes.

22 Q Do you know what Mr. Troupis -- do you recall what

23 Mr. Troupis was saying in this e-mail

24 communication?

25 A I don't recall.

1 Q Did you ever communicate with Mr. Troupis directly

2 about MALDEF's proposals for Assembly Districts 6

3 and 9?

4 A By e-mail, yes.

5 Q Did you ever speak with Mr. Troupis directly about

6 MALDEF's proposals for Assembly Districts 6 and 9?

7 A I don't recall.

8 Q There is, if you turn to the second page of

9 Exhibit 116, and if you look at the bottom, you'll

10 see an e-mail from Elisa Alfaro to Mr. Troupis;

11 do you see that?

12 A Yes.

13 Q And then if you continue over to the next page, it

14 appears that there is an area where that's

15 redacted; do you see that?

16 A What area are you referring to?

17 Q I'm right below the signature that says Elisa?

18 A Okay.

19 Q It appears there's an area that's redacted. Do

20 you know whether there was commentary there that

21 was redacted?

22 A I'm not sure if that's redacted, or if that was

23 just blank space.

24 Q Okay. If you look below that, there is an e-mail

25 dated Monday, July 11th, and that's from you to

1 Mr. Troupis, Mr. Foltz, and Mr. McLeod and
2 Mr. Taffora, correct?
3 A Yes.
4 Q And that has been redacted, correct?
5 A Yes.
6 Q Do you know what the substance of that
7 communication was?
8 A I don't recall.
9 Q Did you ever have any communications with --
10 with Mr. Troupis about the WALDEF map that is
11 attached to that Monday, July 11th e-mail from
12 Elisa Alfonso to Mr. Troupis?
13 A Yes.
14 Q And what did you discuss about that map?
15 A I don't recall.
16 Q Did you ever personally review the map that WALDEF
17 proposed?
18 A I did.
19 Q Do you know whether that map was considered in
20 formulating Districts 8 and 9?
21 A The WALDEF map?
22 Q Yes.
23 A Yes.
24 Q How was it considered?
25 A We looked at what they had proposed and then used

1 that as a starting point for an amendment that was
2 eventually adopted and signed into law.
3 Q Why didn't you use the map that WALDEF proposed?
4 A The boundaries of the district that WALDEF had
5 proposed would have required revising several
6 other Assembly districts. The alternative we sent
7 back to them confined the changes to two Assembly
8 districts.
9 Q Why did it confine the changes to two Assembly
10 districts?
11 A Because that was all that was necessary.
12 Q Necessary for what?
13 A To make the changes.
14 Q Well, WALDEF's proposal would have required
15 changes to the outer bounds of existing -- of
16 Districts 8 and 9 as they had been proposed as of
17 that time; is that correct?
18 A WALDEF's proposal would have required alterations
19 to those boundaries as well as to other Assembly
20 districts.
21 Q And so why was that not done?
22 A It appeared that we could accomplish what we
23 thought WALDEF was trying to do and not require
24 extensive revisions to the maps outside of those
25 two Assembly districts.

1 And who communicated to you what WALTER was trying
2 to do?
3 A The -- it was communicated through this e-mail
4 change with their proposed map.
5 Q Did they ever -- did WALTER ever characterize for
6 you or did you ever learn of their
7 characterization of what they were trying to
8 accomplish with their proposed map?
9 A Not outside of these e-mail communications.
10 Q Did you ever talk with Mr. Troupis about what
11 WALTER was trying to do?
12 A I don't recall.
13 Q I had asked you also at the deposition in December
14 a question that relates directly to a statement
15 made in one of the e-mails in Exhibit No. 116. So
16 if you turn to the one, two, three, four, fifth
17 page, and there is a statement in the paragraph
18 under the Monday, July 16th, 2011 e-mail where
19 Mr. Troupis appears to be saying to Elisa Alfonso
20 and Alvaro Pinas, the quote is "I like your
21 proposal. We've taken it a bit further. Here is
22 a comparison of WALTER's proposal to a suggestion
23 we think might work a bit better." Do you see
24 that?
25 A Yes.

1 Q And did you have any discussions with Mr. Troupis
2 about why he believed that that suggestion might
3 work a little bit better?
4 A I don't recall.
5 Q Did you ever have any discussions with Mr. Troupis
6 where you made any evaluation of WALTER's proposal
7 versus the map that you had drawn for Districts 8
8 and 9 at the time?
9 A Yes.
10 Q And what did you say?
11 A I don't recall.
12 Q Did you have any discussions with Mr. Troupis
13 about having a representative of WALTER testify at
14 the July 13th, 2011 hearing?
15 A I don't recall.
16 Q Did you ever speak with anybody at WALTER about
17 testifying at the July 13th, 2011 committee
18 hearing?
19 A I did not.
20 Q You can set that document to the side.
21 Mr. Ottman, you testified earlier that you had
22 prepared some talking points for meetings that you
23 had with individual members, republican members of
24 the Senate, correct?
25 A Yes.

1 A I don't recall.
2 Q Can you look back at Exhibit 11B, please? I'm
3 sorry, made that 11B. Exhibit 11B also contains
4 redactions, and we've talked about that before,
5 correct?
6 A Correct.
7 Q If we look at the first e-mail from Mr. Troupis to
8 you and Mr. Folini, with copies to Mr. McLeod and
9 Mr. Taffera. It's dated July 10th, 2010; do you
10 see that?
11 A Yes.
12 Q Do you recall the subject matter of the discussion
13 or the wording that's in the e-mail that
14 Mr. Troupis sent to you and Mr. Folini?
15 A I believe it had to do with MALDEF and their
16 consideration of the alternatives.
17 Q Can you be any more specific than simply that it
18 had to do with MALDEF and their consideration of
19 the alternatives? Was there some specific aspect
20 of MALDEF's consideration of the alternatives that
21 Mr. Troupis was addressing?
22 A I don't recall the specifics.
23 Q And this was the day before the public hearing on
24 July 13th, correct?
25 A That's correct.

1 Q Do you know whether Mr. Troupis, in his e-mail,
2 was addressing potential testimony by MALDEF at
3 the hearing?
4 A It's possible.
5 Q Does the timing of the e-mail being of July 10th
6 refresh your recollection at all about the
7 specificity of the topic Mr. Troupis is discussing
8 in this e-mail?
9 A It does not.
10 Q Did you have further discussions or communications
11 with Mr. Troupis outside of these e-mail
12 communications in Exhibits 16, 17, and 18
13 regarding MALDEF or the configuration of Assembly
14 Districts 8 and 9 where other people were present?
15 A Not that I recall.
16 Q Did Mr. Handrock participate in any of these
17 discussions?
18 A Not that I recall.
19 Q Did Dr. Gaddie participate in any of these
20 discussions?
21 A No.
22 Q Shift gears slightly here and ask you to take out
23 three exhibits that are in front of you, 102, 103,
24 and 104. Do you have those documents in front of
25 you, Mr. Ottman?

MICHAEL BEST

Michael Best & Friedrich LLP
Attorneys at Law
One South Parkway Street
Suite 700
Madison, WI 53703
P.O. Box 1806
Madison, WI 53701-1806
Phone: 608.257.3541
Fax: 608.253.2275
Eric M. McLeod
Direct: 608.283.2257
Email: ammc@mcbestf.com

February 13, 2012

BY ECF

Honorable Diane P. Wood
Circuit Judge
Honorable J.P. Stadtmueller
District Judge
Honorable Robert M. Dow, Jr.
District Judge
UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WISCONSIN
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

Re: *Baldus v. Brennan*, No. 11-CV-862
(Consolidated with *Voces de la Frontera, Inc. v. Brennan*, No. 11-CV-1011)

Dear Judges Wood, Stadtmueller, and Dow:

This letter concerns two subpoenas issued by the Baldus plaintiffs to Tad Oltman and Adam Foltz, who are staff members for Senate Majority Leader Scott Fitzgerald and Speaker Jeff Fitzgerald respectively. The Court is certainly aware of the disputes previously raised regarding these subpoenas, which were addressed by Orders of the Court dated November 30, 2011, December 20, 2011, and January 3, 2012. We have sought to fully comply with the Court's Orders and, following the January 3rd Order, Mr. Oltman and Mr. Foltz produced all responsive documents that had previously been withheld on legislative privilege grounds.

Mr. Oltman and Mr. Foltz were subsequently made available for the continuation of their prior depositions. During the course of Mr. Oltman's deposition, a dispute arose regarding the application of the attorney-client privilege as it relates to communications between counsel, Michael Best & Friedrich LLP and Troupis Law Office LLC, and their clients, the Wisconsin Senate and Wisconsin Assembly, by their respective leaders, Mr. Oltman and Mr. Foltz subsequently provided a privilege log identifying 84 documents, mostly email correspondence, which we believe fall within the scope of the attorney-client privilege.

Counsel for the Baldus plaintiffs dispute the assertion of the attorney-client privilege with respect to these documents for several reasons. However, through an exchange of correspondence between counsel, we have agreed that the most expeditious means of resolving this dispute, particularly in light of the fast-approaching trial date, is to submit the documents for *in camera* review by a Magistrate Judge. A copy of the various correspondence between counsel related to this issue are attached hereto as Exhibits A through I.

Case 2:11-cv-00562-JPS-DPW-RMD Filed 02/13/12 Page 1 of 2 Document 132

Honorable Diane P. Wood
Honorable J.P. Stadtmueller
Honorable Robert M. Dow, Jr.
February 13, 2012
Page 2

We, as counsel for the Senate and Assembly, along with counsel for the Baldus plaintiffs have agreed to jointly request that a Magistrate Judge be appointed to conduct this *in camera* review and to resolve the attorney-client privilege issues related to these documents. Given that the three-judge panel is the ultimate fact-finder in the case, we believe it appropriate for a Magistrate Judge to conduct that review.

Counsel for the Baldus plaintiffs has also proposed that each side submit a short 3-page brief addressing these issues in order to assist the Magistrate Judge in resolving the matter. We have no objection to such an approach. We stand ready to submit the documents to the Magistrate Judge immediately for *in camera* review and would appreciate the Court appointing a Magistrate Judge for that purpose.

Thank you for the Court's attention to this matter.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP

/s/ Eric M. McLeod

Eric M. McLeod

EMM:skt

Enclosures

cc: Counsel of Record (by ECF)

Case 2:11-cv-00562-JPS-DPW-RMD Filed 02/13/12 Page 2 of 2 Document 132

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Confidentiality and Nondisclosure Related to Reapportionment

Michael Best & Friedrich LLP ("MB&F") is currently engaged to represent the Wisconsin State Senate, by its Majority Leader Scott L. Fitzgerald ("Senate") in connection with matters relating to the reapportionment of the Wisconsin Senate, Assembly and Congressional Districts arising out of the 2010 census (the "Representation"). In connection with the Representation we have instructed certain individuals, working at our direction, to meet with certain members of the Senate for the purpose of discussing matters within the scope of the Representation. Such discussions shall be conducted for the sole purpose of assisting MB&F in rendering legal advice to the Senate and, therefore, are subject to the attorney-client and attorney work product privileges. Consistent with those privileges, such discussions are and shall remain confidential.

This letter will confirm our understanding that such discussions are and shall remain confidential and that you agree not to disclose the fact and/or contents of such discussions or any draft documents within your possession related to the subject of the Representation with persons outside of the privilege. If you have any questions regarding the foregoing, please feel free to raise those questions with me. Otherwise, in order to confirm the foregoing understanding, please sign on the line indicated below.

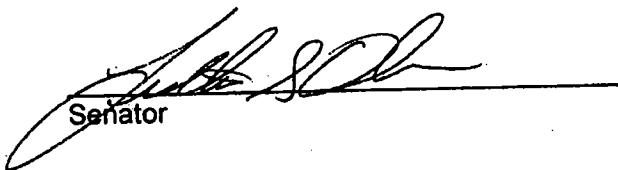
Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

APPROVED AND AGREED UPON:


Senator

Date: 4/12/11, 2011.

029472-0001\9030774.1

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Confidentiality and Nondisclosure Related to Reapportionment

Michael Best & Friedrich LLP ("MB&F") is currently engaged to represent the Wisconsin State Senate, by its Majority Leader Scott L. Fitzgerald ("Senate") in connection with matters relating to the reapportionment of the Wisconsin Senate, Assembly and Congressional Districts arising out of the 2010 census (the "Representation"). In connection with the Representation we have instructed certain individuals, working at our direction, to meet with certain members of the Senate for the purpose of discussing matters within the scope of the Representation. Such discussions shall be conducted for the sole purpose of assisting MB&F in rendering legal advice to the Senate and, therefore, are subject to the attorney-client and attorney work product privileges. Consistent with those privileges, such discussions are and shall remain confidential.

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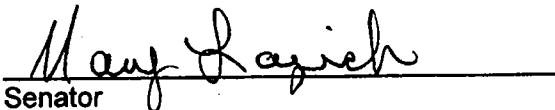
Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

APPROVED AND AGREED UPON:


Senator

Date: 5-3-11, 2011.

029472-0001\9030774.1

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Confidentiality and Nondisclosure Related to Reapportionment

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Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

APPROVED AND AGREED UPON:



Senator

Date: 4/21, 2011.

029472-0001\9030774.1

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

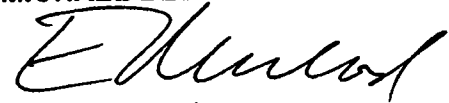
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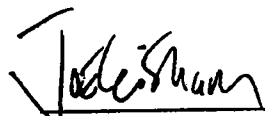
Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

APPROVED AND AGREED UPON:



Senator

Date: 5/2/11, 2011.

029472-0001\9030774.1

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION


Confidentiality and Nondisclosure Related to Reapportionment

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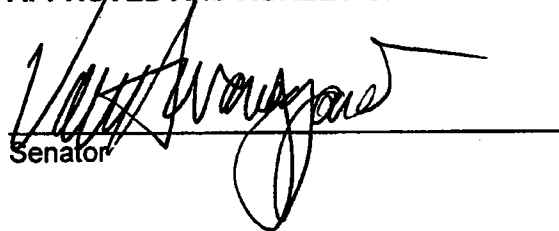
Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

APPROVED AND AGREED UPON:



Senator

Date: 04/27/2011, 2011.

029472-0001\9030774.1

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

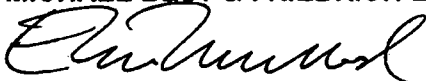
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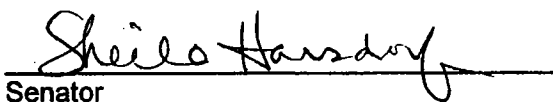
Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

APPROVED AND AGREED UPON:


Senator

Date: 4.6.11, 2011.

029472-0001\9030774.1

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Confidentiality and Nondisclosure Related to Reapportionment

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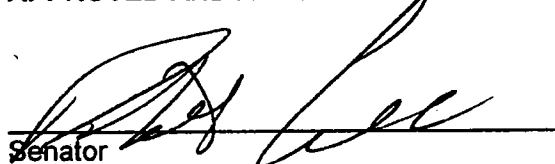
Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

APPROVED AND AGREED UPON:



Senator

Date: 4/26, 2011.

029472-0001\9030774.1

PRIVILEGED ATTORNEY-CLEINT COMMUNICATION


Confidentiality and Nondisclosure Related to Reapportionment

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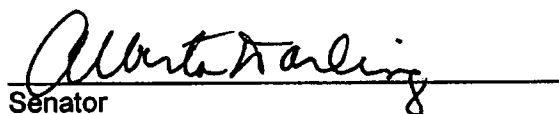
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Sincerely,

MICHAEL BEST & FRIEDRICH LLP


Eric M. McLeod

APPROVED AND AGREED UPON:


Senator

Date: 4/6/11, 2011.

029472-0001\9030774.1

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Sincerely,

MICHAEL BEST & FRIEDRICH LLP


Eric M. McLeod

APPROVED AND AGREED UPON:



Senator

Date: 5/4, 2011.

029472-0001\9030774.1

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Confidentiality and Nondisclosure Related to Reapportionment

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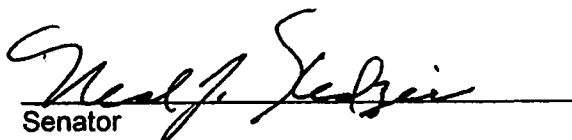
Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

APPROVED AND AGREED UPON:


Senator

Date: 5-3-11, 2011.

029472-0001\9030774.1

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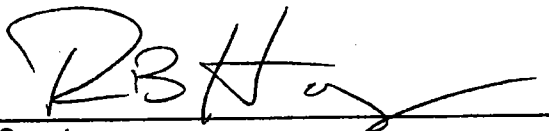
Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

APPROVED AND AGREED UPON:



Senator

Date: April 12, 2011.

029472-0001\9030774.1

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

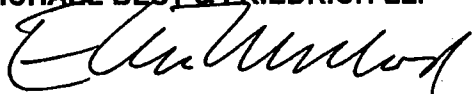
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Eric M. McLeod

APPROVED AND AGREED UPON:



Senator

Date: 5-4, 2011.

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Eric M. McLeod

APPROVED AND AGREED UPON:


Senator

Date: 4/26/11, 2011.

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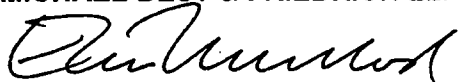
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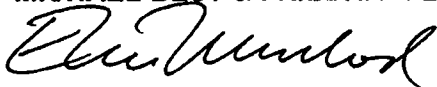
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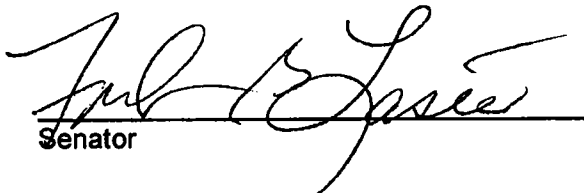
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Eric M. McLeod

APPROVED AND AGREED UPON:



Senator

Date: 4/21, 2011.

029472-00019030774.1

PRIVILEGED ATTORNEY-CLEINT COMMUNICATION

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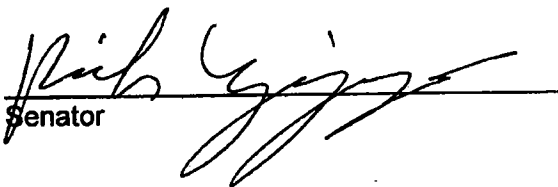
Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

APPROVED AND AGREED UPON:


Senator

Date: 4/6, 2011.

029472-0001\9030774.1

General Talking Points

- General Map Goals
 - Highest priority is achieving equal population
 - Must properly draw minority districts
 - "Minorities must be given the opportunity to elect the candidate of their choosing."
 - Compact and contiguous
- Timeline and process
 - 3 separate bills will be introduced
 - Congressional Map, Legislative Map, Process/Venue Change
 - Senate Plans to introduce the bill late next week
 - Floor action by the middle of the month
 - Assembly will wait and see for the legislative map
 - This is a placeholder map. If the Senate comes back in the majority, we may come back and adjust.
 - Public comments on this map may be different than what you hear in this room. Ignore the public comments.
- Confidentiality
 - Previously signed agreement applies to this meeting
 - Public comment will lead to depositions and being called to the witness stand

Brandt, Karen J (15243)

From: ecfmaster@wied.uscourts.gov
Sent: Monday, February 13, 2012 1:58 PM
To: ecfmaster@wied.uscourts.gov
Subject: Activity in Case 2:11-cv-00562-JPS-DPW-RMD Baldus et al v. Brennan et al Objections

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

United States District Court

Eastern District of Wisconsin

Notice of Electronic Filing

The following transaction was entered by Earle, Peter on 2/13/2012 at 1:57 PM CST and filed on 2/13/2012

Case Name: Baldus et al v. Brennan et al
Case Number: 2:11-cv-00562-JPS-DPW-RMD
Filer: Voces De La Frontera Inc
Document Number: 134

Docket Text:

OBJECTIONS by Voces De La Frontera Inc to Letter from Eric McLeod (Doc. No. 132).
(Attachments: # (1) Exhibit No. 1 Privilege Log, # (2) Exhibit No.2 Ottman Depo Ex 116, # (3) Exhibit No. 3 Ottman Depo select pages, # (4) Exhibit No. 4 Senate confidentiality agreements, # (5) Exhibit No. 5 Talking pointy memo)(Earle, Peter)

2:11-cv-00562-JPS-DPW-RMD Notice has been electronically mailed to:

Aaron H Kastens ahkastens@michaelbest.com, mlcrimmins@michaelbest.com

Brady C Williamson bwilliam@gklaw.com, agrote@gklaw.com, jschwartz@gklaw.com

Colleen E Fielkow cfielkow@reinhardtlaw.com, kkempski@reinhardtlaw.com

Daniel Kelly DKelly@reinhardtlaw.com, aschneik@reinhardtlaw.com

Daniel S Lenz dlenz@lawtoncates.com

Douglas M Poland dpoland@gklaw.com

Dustin B Brown dbrown@gklaw.com

[STAMP dcecfStamp_ID=1001523647 [Date=2/13/2012] [FileNumber=1835874-3]
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Document description:Exhibit No. 4 Senate confidentiality agreements

Original filename:

Electronic document Stamp:

[STAMP dcecfStamp_ID=1001523647 [Date=2/13/2012] [FileNumber=1835874-4]
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Document description:Exhibit No. 5 Talking pointy memo

Original filename:

Electronic document Stamp:

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